



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Sent via Certified Mail:
Return Receipt Requested

Herman Honanie
Chairman
Hopi Tribe
P.O. Box 123
Kykotsmovi, Arizona 86039

Re: Title and Ownership Documents for Four Public Water Systems
Mishongnovi- EPA PWS ID Number 090400394
Sipaulovi- EPA PWS ID Number 090400107
Hopi Cultural Center- EPA PWS ID Number 090400260
Polacca- EPA PWS ID Number 090400106

Honorable Chairman Honanie:

This letter is a follow-up to the April 29 to May 30, 2014 inspections of the Mishongnovi, Sipaulovi, Hopi Cultural Center and Polacca Public Water Systems (Systems) conducted by Christopher Chen and Hillary Hecht of the U.S. Environmental Protection Agency (EPA) Region 9 under the authority of Section 1445(b) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300j-4(b)(c).

Commented [KM1]: This makes it sound like the inspections lasted over a month. I assume that's not the case.

Based on information gathered by EPA, it appears that each of the System's running annual average for arsenic has exceeded the maximum contaminant level ("MCL") of 0.010 mg/L, are in non-compliance with the arsenic maximum contaminant level (MCL) and monitoring and reporting requirements under the SDWA. It is stated in 40 CFR § 141.62(b)(16) that the arsenic MCL is 0.010 mg/L. In addition, 40 C.F.R. § 141.23(c)(7) states that "Systems which exceed the maximum contaminant levels as calculated in § 141.23(i) of this section shall monitor quarterly beginning in the next quarter after the violation occurred". The System's arsenic MCL exceedances and quarterly monitoring performance was observed in EPA Region 9's internal Direct Implementation Management Environment ("DIME") database, which is the database of record for EPA Region 9's Public Water System Supervision (PWSS) Direct Implementation Program for tribal public water systems. The DIME database contains water quality sampling analytical data collected by tribal public water systems in the pursuit of National Primary Drinking Water Regulation monitoring requirements.

Commented [KM2]: We never state explicitly in writing that a respondent is in violation until we are at the point of either entering into an AOC or issuing an AO / complaint, etc.

Pursuant to EPA's authority under Section 1445 of the SDWA, 42 U.S.C. § 300j-4, and for purposes of determining compliance with the SDWA regulations, EPA hereby requires you, in

Commented [KM3]: I tried playing around with this, but ultimately I just don't think it's necessary. We do not need to lay out all of our alleged violations in the RFI. Indeed, it's probably for the best that we don't.

your official capacity as Chairman of the Tribe, and as a possible owner/operator of the System, to provide the following information:

1. ~~Coppy of any and all title documents, including legal title documents, deed documents and lease/contract agreements, that identifying all a party or parties as havingies with either a legal, or equitable, or other interest in each any of the Systems.~~
2. ~~Copy of legal deed documents showing evidence of ownership of each of the Systemsany documents regarding transfer of ownership or operation of any of the Systems from one party to another, including any entity of the United States government, such as the U.S. Bureau of Indian Affairs, to another party, including the Tribe and/or Tribal Villages.~~
3. ~~Copy of any title reports showing the history of title of each of the Systems.~~
4. ~~Copy of any document concerning who is responsible for the operation of any of the Systems, or documenting who has operated the system for any period of time within the past ten years.~~
5. ~~Copy of any documents concerning who receives proceeds from any fees or rates charged for receipt of water provided from any of the Systems, including an example of a bill or invoice charged to customers or users of any of the Systems.~~
6. ~~Copy of any documents concerning who is responsible for funding maintenance, personnel, monitoring, and/or general upkeep of any of the Systems. Include expense reports, receipts, invoices, or the like, for any major expenses incurred at any of the Systems which document which entity paid for the work performed.~~
- 3.7. ~~Copy of any document which demonstrates the Tribe or a Tribal Village received a grant or other source of outside funding for the operation of any of the Systems.~~

Commented [KM4]: Is there anything else we are interested in? Such as copies of public notices, other monitoring results, update on their efforts to address arsenic, etc? Now is the time to ask.

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All submittals made in response to this letter must be accompanied by the following certification, which is to be signed by you or a duly authorized representative appointed by you, in accordance with 40 C.F.R. § 144.32(b) and (d):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Your response to this information request must be submitted by **XXX X, 2015** to the following address:

Commented [KM5]: Should we give them 30 days?

Hillary Hecht
USEPA, Region 9
Enforcement Division

Water and Pesticides Branch (ENF 3-3)
75 Hawthorne Street
San Francisco, CA 94105

In lieu of submitting the requested response by mail, you may submit your response as portable document files ("pdf"), including the signed certification, via electronic mail to Mr. Hecht at [[HYPERLINK "mailto:hecht.hillary@epa.gov"](mailto:hecht.hillary@epa.gov)].

Failure to submit the requested information may subject you to enforcement action by EPA and may result in significant monetary penalties, including a civil penalty of up to \$37,500 pursuant to Section 1445(c) of the SDWA, 42 U.S.C. § 300j-4(C). The information provided in response to this letter may be used by EPA in administrative, civil or criminal proceedings.

EPA has promulgated regulations to protect the confidentiality of business information it receives. These regulations are set forth in 40 C.F.R. Part 2, Subpart B. A claim of business confidentiality may be asserted in the manner specified in 40 C.F.R. § 2.203(b) for part or all of the information submitted in response to this letter. EPA will disclose business information covered by such a claim only to the extent authorized by 40 C.F.R. Part 2, Subpart B. If no business confidentiality claim accompanies the information when EPA receives it, EPA may make it available to the public without further notice. You may not withhold any information from EPA on the grounds that it is confidential business information.

This request for information is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not a "collection of information" under 44 U.S.C. § 3502(3). It is directed to fewer than ten persons and is an exempt investigation under 44 U.S.C. § 3518(c)(1).

Thank you for your attention to this matter. Please feel free to contact Mr. Hecht at (415) 947-4266 or [[HYPERLINK "mailto:hecht.hillary@epa.gov"](mailto:hecht.hillary@epa.gov)] with any questions and/or concerns.

Sincerely,

Roberto Rodriguez, Manager
SDWA/FIFRA Enforcement Office

Cc: Alban Mooya, Jr., Village of Kykotsmovi
George Mase, Village of Sipaulovi
Annette F. Talayumptewa, Village of Mishongnovi
James M. Tewayguna, First Mesa Consolidated Villages

